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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT  
APPEALS AND INTERFERENCES

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| Applicants: Martin A. Kenner, et al. | ) | I hereby certify that this |
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|                                      | ) |                            |
| Examiner: R. Osman                   | ) | Trevor B. Jolke            |
|                                      | ) | Reg. No. 25,542            |
| Confirmation No.: 4518               | ) | Attorney for Appellants    |

APPELLANT'S BRIEF

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to the provisions of 37 CFR §41.37,  
Appellants submit the following brief.

1. Real Party in Interest

The real party in interest is 3M of St. Paul,

2. Related Appeals and Interferences

There are no other appeals or interferences known to Appellants, Appellants' legal representatives or assignees which will directly affect or be affected by or have a bearing on the Board's decision in the pending appeal.

3. Status of Claims

Claims 1-9 and 11-45 remain in the application. Claims 1-9 and 11-45 are finally rejected and are appealed (claim 45 was not considered by the Examiner in the Final Rejection but is treated as rejected in the Advisory Action).

4. Status of Amendments

All amendments have been entered.

5. Summary of Claimed Subject Matter

As disclosed on page 5, lines 10-25 of the present application, content providers 12A, 12B, 12C, . . ., 12n offer content that may be transmitted to content recipients 14A, 14B, 14C, . . ., 14n over a network 16.

As disclosed on page 6, lines 1-20, one or more of the content providers 12A, 12B, 12C, . . ., 12n may carry a web page 20. The web page 20 has posted thereon a note 22, an advertising banner 24, a graphic 26, and text 28.

As disclosed on page 6, line 21 through page 8, line 17, the note 22 may include a title bar 40, a pull down menu icon 42 that can be activated to offer the content recipient with a choice of options, and a display

area 44 in which a graphic 46, text 48, and/or other material may be provided. The text 48 can include a URL 50, such as a live URL, that may be related to the text.

As disclosed on page 8, line 18 through page 17, line 13, the note 22 may be automatically accessed by a content recipient in accordance with a program 60 that may be downloaded over the network 16 from a content provider or that may be supplied to the content recipient on a disc or other memory device.

Execution of the program 60 is automatically initiated, for example, each time that the content recipient starts up or accesses the network 16. When started, a block 62 of the program 60 identifies and interrogates a content provider for newly posted content. The program 60 at a block 64 then determines whether the content recipient has received an indication that the content provider has newly posted content.

If the content recipient receives the indication, a block 68 determines whether the content recipient has the software necessary to display the newly posted content. If the content recipient does not have this software, a block 70 requests the download of the appropriate software.

When the content display software is installed at the block 70, or if the block 68 determines that the content recipient already has this software, the program 60 at a block 72 requests download of the newly posted content (which may in the form of the note 22). If a block 74 determines that the newly posted content has not been received within a predetermined amount of time, a block 76 causes the display of a message notifying the

content recipient of the failure to receive the newly posted content.

If the block 74 determines that the newly posted content has been received, a block 78 provides a notifier to the content recipient that the newly posted content has been received. This notifier may be a window, an icon, or other symbol displayed in a tool bar, a title bar, inside a window frame, or other location. The notifier 82, for example, is automatically displayed as a top most layer so that it is visible to the content recipient even though another application currently has the focus (i.e., is active).

When the notifier 82 is activated (such as by clicking on it) at a block 80, the received newly posted content (e.g., the note 22) is made to appear at a predetermined location on the screen display of the content recipient. Blocks 88, 90, and 92, if implemented, cause the received newly posted content to burn through an active window as shown in Figure 6.

If a block 100 determines that an attachment location is identified such as by the content recipient, the received content is attached to the identified location at a block 102. Attachment may have one or more of the following example attributes: the received content is made to appear whenever the location to which it is attached is made to appear or is visible; the received content is made to disappear whenever the location to which it is attached is made to disappear or is not visible; the received content is made to move whenever the location to which it is attached is moved, such as by scrolling or otherwise; the received content is automatically de-attached from a first location and

re-attached to a second location whenever the received content is dragged from the first location and dropped at the second location; and/or the received document can be de-attached from one area of a display, such as a first window, and can be re-attached to a second area of the display, such as a second window.

As disclosed on page 17, line 14 through page 20, line 6, Figure 7 is a flow diagram for a program 110 that may be executed by the content providers. A block 112 receives a new content request from a content recipient. The new content request contains an identification of the content recipient that does not identify the content recipient. The identification is only sufficient to determine which content, if any, has been previously supplied by the content provider to the requesting content recipient.

A block 114 determines whether the identification received at the block 112 was contained in a previous request. If not, a block 116 selects all currently posted content as the content to be sent to the content recipient, and a block 118 sends the selected content to the content recipient.

If the block 114 determines that the identification received at the block 112 was contained in a previous request, a block 120 determines whether any new content has been posted by the content provider since the previous request from the content recipient. If not, a block 122 selects a null message indicating that there is no new content, and the block 118 sends this message to the content recipient.

If the block 120 determines that new content has been posted by the content provider since the

previous request of the content recipient, a block 124 notifies the content recipient that there is new content. If a block 126 determines that a delivery request has been received from the content recipient, a block 128 selects only this newly posted content, and the block 118 sends this content.

6. Grounds of Rejection to be Reviewed on Appeal

(a) Claims 5, 27, and 35 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

(b) Claims 1-8, 10-13, 30-34, and 37 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,978,807 (hereinafter, "the Mano '807 patent").

(c) Claims 18-22 and 44 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,963,908 (hereinafter, "the Lynch '908 patent").

(d) Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Mano '807 patent in view of U.S. Patent No. 6,134,584 (hereinafter, "the Chang '584 patent").

(e) Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Mano '807 patent in view of U.S. Patent No. 6,636,965 (hereinafter, "the Beyda '965 patent").

(f) Claims 15, 16, 38, and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Mano '807 patent in view of U.S. Patent No. 4,555,775 (hereinafter, "the Pike '775 patent").

(g) Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Lynch '908 patent in view of the Beyda '965 patent.

(h) Claims 24 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Lynch '908 patent in view of the Pike '775 patent.

(i) Claims 26 and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Lynch '908 patent in view of U.S. Patent No. 6,167,567 (hereinafter, "the Mano '567 patent"). In this rejection, the Examiner must mean to apply the Mano '807 patent instead of the Mano '567 patent.

(j) Claims 17 and 40-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Mano '567 patent in view of U.S. Patent No. 5,732,275 (hereinafter, "the Kullick '275 patent"). In this rejection, the Examiner must mean to apply the Mano '807 patent instead of the Mano '567 patent.

## 7. Argument

### Rejection Ground (a)

The Examiner rejected claims 5, 27, and 35 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claim 5 recites that the method of claim 1 is performed without identifying the content recipient to the content provider, claim 27 recites that the initiating of requests and the receiving of the posted content are performed without identifying the content recipient to the content provider, and claim 35 recites that the method of claim 32 is performed without

identifying the content recipient to the content provider.

The Examiner apparently is of the opinion that content can be downloaded from a web site to a user without the web site being able to identify the user. However, if the Examiner's opinion were correct, then a web site would be able *sua sponte* to contact a user. In fact, a web site cannot unless the user has given its e-mail address or some other identifier (such as an IP address or domain name or such user identifier as an account name or user or name) to the web site.

In terms of the present application, as long as the user does not give one of these identifiers to a web site, the web site does not have the identity of the user and cannot *sua sponte* send the user content such as new offerings. (See page 2, line 21 through page 3, line 2 of the present application.)

Accordingly, assuming that a user has not opened a communication link with a web site, and assuming that the web site does not have one of these user identifiers, the web site cannot communicate content to the user. In other words, the web site does not have the identity of the user sufficient to *sua sponte* send new offerings to the user.

Accordingly, claims 5, 27, and 35 meet the written description requirement of 35 U.S.C. §112, first paragraph.

Rejection Ground (b)

The Examiner rejected claims 1-8, 10-13, 30-34, and 37 under 35 U.S.C. §102(b) as being anticipated by the Mano '807 patent.



The Mano '807 patent discloses a television 10 coupled by a cable 12 to a computer 14. The computer 14 is coupled to a telephone line 18, the television is coupled to a set top box 22, and the set top box 22 is coupled to a telephone line 24.

According to the Mano '807 patent, a user programs the computer 14 with addresses of web pages to be automatically downloaded by the computer 14. In response to one of these addresses, the computer 14 accesses the corresponding web page and downloads the web page at specified intervals.

When the web page is downloaded, it is stored in the memory of the computer 14. The user can then access that downloaded web page from the memory. If there are any links in the web page which are interesting to the user, the user can instruct the computer 14 to connect to the Internet and access the actual web pages associated with these links. Once connected to the actual web page, the user has the ability to automatically jump to any links included within the actual web page.

Independent claim 1 is directed to a method in which a content recipient identifies a content provider having posted content of interest to the content recipient, the content recipient automatically initiates a request for the posted content, the content recipient receives the posted content, and a notice is automatically displayed to the content recipient that the posted content has been received.

The Examiner asserts that, according to column 5, lines 2-45 of the Mano '807 patent, notice is provided to the user that the web page has been received at the

user. However, this portion of the Mano '807 patent does not disclose that notice is automatically displayed to the user that a web page has been received.

Instead, this portion of the Mano '807 patent merely discloses that the computer 14 on a daily interval connects to the user's internet service provider, automatically enters the address of an addressee, downloads the web page from the addressee, and stores the downloaded web page. After a web page is downloaded, the user can access this web page using an input device. However, the user cannot utilize any links to other internet addresses included within the web page, because the computer 14 is not actually connected to the internet.

As can be seen, there is no mention here of the notice recited in independent claim 1.

Moreover, the Mano '807 patent does not suggest automatically displaying the type of notice recited in independent claim 1. The Mano '807 patent discloses at column 2, lines 30-34 that "[w]hat is further needed is a system which automatically obtains information from specific internet sites during a specified time period, while a user is not using the system." There is little point in automatically displaying notice to the user if the web page is downloaded while the user is not using the computer.

In the Advisory Action, the Examiner points to column 5, lines 15-25 of the Mano '807 patent in arguing that downloaded information is displayed, which inherently notifies the user that the content has been received. However, column 5, lines 15-25 of the Mano

'807 patent merely discloses that information is downloaded and stored.

As can be seen, the content is not automatically displayed, but instead is stored awaiting a manual operation of the user to display the stored information. Therefore, the Examiner's argument is not pertinent to independent claim 1.

Accordingly, independent claim 1 is neither anticipated by nor obvious over the Mano '807 patent.

Independent claim 32 is directed to a method in which a content provider posts content, a content recipient automatically accesses the content and initiates receipt of the posted content if the posted content is new, and the content provider sends a message notifying the content recipient that the posted content is not new if the posted content is not new.

The Examiner lumped claims 1 and 32 together in the rejection, even though these claims are very different. By lumping these claims together, the Examiner failed to address the limitations of independent claim 32. One of the limitations of independent claim 32 that the Examiner failed to consider relates to the content provider sending a message notifying the content recipient that the posted content is not new.

The Mano '807 patent neither discloses nor suggests sending a message to the computer 14 that the web page is not new.

In the Advisory Action, the Examiner asserts that, when the user notices that a new version is not received, the user is notified that no new version is received. However, failing to send a new version is not the same thing as actually sending notice that no version

is available. Indeed, sending something and not sending something are opposites.

Moreover, the Examiner argues that, because the claim does not provide details of the notice, the Examiner is entitled to interpret the notice broadly. However, the Examiner's argument is not pertinent to the sending of the notice. Moreover, the Examiner cannot broadly interpret a claim limitation (in this case, sending notice) from a reference that does not disclose this limitation.

Accordingly, independent claim 32 is neither anticipated by nor obvious over the Mano '807 patent.

Because independent claims 1 and 32 are patentable over the Mano '807 patent, dependent claims 2-8, 10-13, 30, 31, 33, 34, 37 are likewise patentable over the Mano '807 patent.

Moreover, these dependent claims are also patentable over the Mano '807 patent for additional reasons. For example, dependent claims 12 and 36 recite that the posted content, when received by the content recipient, is displayed behind a session if the session is active.

The Examiner points to column 5, lines 2-45 for a disclosure of these claims. However, this portion of the Mano '807 patent merely discloses that the computer 14 on a daily interval connects to the user's internet service provider, automatically enters the address of an addressee, downloads the web page from the addressee, and stores the downloaded web page. After a web page is downloaded, the user can access this web page using an input device. However, the user cannot utilize any links to other internet addresses included within the web page,

because the computer 14 is not actually connected to the internet.

While this portion of the Mano '807 patent does indicate that the user can access a web page using an input device after the web page is downloaded, there is no disclosure that the web page is displayed behind an active session when it is downloaded.

Moreover, as disclosed in the Mano '807 patent, the web page is downloaded and is stored in the memory. The Mano '807 patent does not disclose that the web page, when received, is displayed behind a session if the session is active. Indeed, the Mano '807 patent discloses that the web page, when received, is stored in either the mass storage device 32 or the main memory 30. Neither of these memories is a display memory (such as the video memory 44 shown in Figure 2 of the Mano '807 patent). Therefore, when web page is received, it is not displayed behind an active session.

The Examiner might have had a better argument if the Mano '807 patent had disclosed storing the web page, when received, in the video memory 44. However, the Mano '807 patent does not contain such disclosure

In the Advisory Action, the Examiner asserts that the Mano '807 patent discloses displaying the web page behind an interaction of the user. However, as pointed about above, unless the web page is placed in the video memory 44 when received, it is not displayed behind anything and, therefore, is not displayed behind even an interaction of the user. Indeed, displaying something when received and not displaying something when received are opposites.

As can be seen, the Examiner's broad interpretation of session is not to the point.

Accordingly, dependent claims 12 and 36 are neither anticipated by nor obvious over the Mano '807 patent.

Dependent claims 13 and 37 recite that the notice is displayed even if a session is active.

The Examiner points to column 4, lines 30-50 and to column 5, lines 10-45 of the Mano '807 patent for this feature of the invention.

Column 4, lines 30-50 of the Mano '807 patent disclose that intervals at which web pages may be downloaded may be specified in the interval column 66, that the column 68 displays the date and time of the last version of the web page which was downloaded corresponding to this entry, that the column 70 displays whether or not the last downloaded web page corresponding to this entry was viewed by the user, and that the computer 14 accesses and downloads a web page and updates the information within the update column 68 and the viewed column 70.

Column 5, lines 10-45 of the Mano '807 patent has been discussed above.

As can be seen, there is no mention in either of these portions of the Mano '807 patent that a notice is displayed even if a session is active.

The Examiner seems to be suggesting that the user interface 60 of the Mano '807 patent is a notice. Even if this suggestion were true, the Mano '807 patent does not disclose displaying the user interface 60 even if a session is active. Indeed, the Mano '807 patent merely suggests that the user interface 60 becomes the

active session, which means that the former active session is no longer active.

In the Advisory Action, the Examiner asserts that the Mano '807 patent discloses displaying the web page behind an interaction of the user. However, as pointed out above, unless the web page is placed in the video memory 44 when received, it is not displayed behind anything and, therefore, is not displayed behind even an interaction of the user. Indeed, displaying something when received and not displaying something when received are opposites.

As can be seen, the Examiner's broad interpretation of session is not to the point.

Accordingly, dependent claims 13 and 37 are neither anticipated by nor obvious over the Mano '807 patent.

It is noted that the Examiner, in sections 6-15 of the Final Rejection, rejected claims 30 and 31 without also rejecting independent claim 18. Applicants assume that such a rejection was a typographical error and, therefore, do not respond with respect to these claims.

#### Rejection Ground (c)

The Examiner rejected claims 18-22 and 44 under 35 U.S.C. §102(e) as being anticipated by the Lynch '908 patent. The Examiner identified certain portions of the Lynch '908 patent as being pertinent to independent claim 18. These portions are discussed immediately below.

The Lynch '908 patent describes at column 4, line 45 through column 5, line 20 the object of providing a system that assures privacy is providing access by users to various offers and advertising materials.

Accordingly, information is transferred from a first computer to a web site for temporary storage and for later transfer from the web site to a second computer. This process includes establishing a communication link between the first computer and the web site, scanning the first computer via the web site to determine the information contained on the first computer, allowing a user to select which of the scanned information is to be uploaded from the first computer onto the web site for temporary storage, and transferring the selected information from the first computer to the web site for temporary storage.

The Lynch '908 patent discloses at column 11, lines 5-30 that, when the user desires to transfer some or all of these temporarily stored files to the second computer, the user establishes a communication link with the web site via the second computer and the Internet. Once this communication link is established, the user accesses his or her personal account by entering a previously assigned account number and selected password. Assuming that the correct account number and password information are entered, the user is then provided access to previously uploaded settings, files, and other data temporarily stored at the web site. Then, the user downloads software from the web site that enables the user to interact with the web site to select and download the desired setting, files, and other data which were previously stored.

The Lynch '908 patent discloses at column 12, lines 5-15 that the web site identifies and displays to the user the application settings and other operating environment information that can be transferred from the



first computer to the second computer and also displays to the user any application settings and other operating environment information that can be transferred from the first computer to the second computer. The web site then prompts the user to select all or a certain portion of the stored files, settings and other data from the first computer which are to be downloaded from the web site to the second computer. The web site also displays to the user the estimated time it will take to download all of the selected files, settings and other data.

The Lynch '908 patent discloses at column 12, line 57 through column 13, line 15 that, after the user has selected all of the desired settings, files and other data to be downloaded, the web site prompts the user to begin the download process. If the user initiates the download, the web site interacts with the second computer to coordinate the sequential transmission of the temporarily stored and selected settings, files, and other data. Once this download process is completed, the web site confirms the successful transfer of all of the selected application setting(s), file(s), and other data. If all of the selected application setting(s), file(s), and other data were successfully received by the second computer, the user can exit from the web site. The user can either leave these uploaded files, settings, and other data temporarily stored at the web site, or the user can delete all or a portion of the uploaded files, settings, and other data.

As can be seen, there is no disclosure here or in any other portions of the Lynch '908 patent that the files, settings, and other data temporarily stored at the

web site and downloaded to the user are posted on a web page of the web site as required by independent claim 18.

Moreover, there is no disclosure in the cited portions of the Lynch '908 patent or in any other portions of the Lynch '908 patent that the files, settings, and other data temporarily stored at the web site and downloaded to the user are received without receiving a whole web page as also required by independent claim 18.

In the Advisory Action, the Examiner asserts that the Lynch '908 patent discloses that data is stored at the web site. The Examiner concludes that storing data at a web site means posting data on the web site. Even if this conclusion were true, it is not pertinent to independent claim 18. Independent claim 18 recites that only a content element of the web page is downloaded behind an interaction of the user. The Lynch '908 patent does not teach that the data that is downloaded from the first computer to the web site is posted as an element of web page and is downloaded to the second computer without downloading the rest of the web page.

Moreover, the Examiner asserts that the Lynch '908 patent discloses that a list is displayed to the user and that the user can select data from the list. Again, this assertion is not pertinent to independent claim 1. The Lynch '908 patent does not disclose that the list or portions of the list may be downloaded. Instead, the Lynch '908 patent discloses that it is the actual data that is downloaded, and there is no disclosure in the Lynch '908 patent that this actual data is posted on the same web page as the list.

As can be seen, the Examiner's broad interpretation of posted is not to the point.

Accordingly, the Lynch '908 patent does not anticipate independent claim 18.

Because independent claim 18 is patentable over the Lynch '908 patent, dependent claims 19-22 and 44 are likewise patentable over the Lynch '908 patent.

Moreover, these dependent claims are also patentable over the Lynch '908 patent for additional reasons.

For example, dependent claims 19 and 21 recite providing a notice that the posted content has been received in response to the request. The Examiner apparently is of the opinion that the confirmatory message disclosed in column 12, line 57 through column 13, line 15 is the notice of dependent claim 19.

However, this portion of the Lynch '908 patent states that "[o]nce this download process is completed, the web site . . . confirms . . . whether or not a successful transfer . . . has occurred." In other words, the web site confirms that the files were successfully transmitted, not received.

Accordingly, the Lynch '908 patent does not disclose providing a notice that the posted content has been received in response to the request as recited in dependent claims 19 and 21.

In the Advisory Action, the Examiner improperly treats the recited notice and the separately recited posted content as the same limitation in dependent claims 19 and 21. However, these limitations are separately and distinctly recited in dependent claims 19 and 21.

Therefore, dependent claims 19 and 21 are not anticipated by the Lynch '908 patent.

Dependent claim 20 recites that the posted content is displayed, when received, behind a session if the session is active.

For this feature of the invention, the Examiner points to column 12, line 57 through column 13, line 30 of the Lynch '908 patent.

This portion of the Lynch '908 patent discloses that, after the user has selected all of the desired settings, files and other data to be downloaded, the web site prompts the user to begin downloading the select application setting(s), file(s), and other data. Once this download process is completed, the web site sends a confirming message to the user. The user can then exit from the web site and can either leave these uploaded files, settings, and other data temporarily stored at the web site or the user can delete all or a portion of the uploaded files, settings, and other data.

As can be seen, this portion of the Lynch '908 patent does not disclose or even mention displaying downloaded content behind a session if the session is active.

Accordingly, dependent claim 20 is not anticipated by the Lynch '908 patent.

Dependent claim 22 recites providing notice that posted content has been received where the notice is displayed even if a session is active.

For this feature of the invention, the Examiner also points to column 12, line 57 through column 13, line 30 of the Lynch '908 patent.

As should be clear from the above description, this portion of the Lynch '908 patent does not disclose or even mention displaying notice that posted content has been received even if a session is active.

Accordingly, dependent claim 22 is not anticipated by the Lynch '908 patent.

Section 21 of the Office Action discusses claim 27. Therefore, applicants assume that the fact that claim 27 was not rejected in section 17 was an oversight.

Dependent claim 27 recites that the initiating of requests and the receiving of the posted content are performed without identifying the content recipient to the content provider.

For this feature of the invention, the Examiner points to column 4, line 50 through column 5, line 20 of the Lynch '908 patent. As can be seen from the above description of this portion of the Lynch '908 patent, there is no mention or suggestion that a user initiates and receives posted content without identifying the user to the web site.

Indeed, the Lynch '908 patent suggests just the opposite because the web site must have a personal account for the user containing the user's personal profile, account number, login password. In other words, the identity of the user must be known to the web site in order for the user to access information at the web site.

Accordingly, dependent claim 27 is not anticipated by the Lynch '908 patent.

Section 22 of the Office Action discusses claim 29. Therefore, applicants assume that the fact that claim 29 was not rejected in section 17 was an oversight.

Dependent claim 29 recites providing notice that no posted content has been received in response to the request.

For this feature of the invention, the Examiner points to column 13, line 10-40. As discussed above, the Lynch '908 patent describes a confirmatory message that is sent to the user and that indicates that information has been successfully transmitted. However, such a message does not indicate that the information was received or not received.

Accordingly, dependent claim 29 is not anticipated by the Lynch '908 patent.

Dependent claim 44 recites that the downloaded content element comprises a note attached to the web page.

As described above, there is no disclosure in the Lynch '908 patent that the information transmitted from the web site to the second computer (i.e., the user) is attached to a web page.

Accordingly, dependent claim 44 is not anticipated by the Lynch '908 patent.

#### Rejection Grounds (d) - (j)

The Examiner variously combined the Chang '584 patent, the Beyda '965 patent, the Pike '775 patent, and the Kullick '275 patent with the Mano '807 patent and the Lynch '908 patent.

However, the Chang '584 patent, the Beyda '965 patent, the Pike '775 patent, and the Kullick '275 patent do not make up for the deficiencies of the Mano '807 patent and the Lynch '908 patent with respect to independent claims 1, 18, and 32. Therefore, the

combination of any one or more of these patents with the Mano '807 patent and the Lynch '908 patent cannot disclose or suggest the inventions of these independent claims.

Accordingly, independent claims 1, 18, and 32 are patentable over the Mano '807 patent or the Lynch '908 patent in view of the Chang '584 patent and/or in view of the Beyda '965 patent and/or in view of the Pike '775 patent and/or in view of the Kullick '275 patent.

Because independent claims 1, 18, and 32 are patentable over the Mano '807 patent or the Lynch '908 patent in view of the Chang '584 patent and/or in view of the Beyda '965 patent and/or in view of the Pike '775 patent and/or in view of the Kullick '275 patent, all dependent claims of the present application are likewise patentable over the Mano '807 patent or the Lynch '908 patent in view of the Chang '584 patent and/or in view of the Beyda '965 patent and/or in view of the Pike '775 patent and/or in view of the Kullick '275 patent.

Furthermore, dependent claims 15, 16, 38, and 39 recite that, upon an action related to the notice, either the posted content burns through the session so that the posted content is visible to a user or the posted content is displayed in front of the session so that the posted content is visible to a user.

The Examiner relies on the Pike '775 patent in combination with the Mano '807 patent to reject these claims. (The Examiner actually cites to a Mano patent 6,167,567 for this rejection. Applicants assume that this citation is a typographical error since this patent was not used in the rejections of independent claims 1 and 32.)

The Pike '775 patent relates to the changing of the order of layering when multiple windows are displayed to a user. However, the order of layer as described in the Pike '775 patent is not dependent upon an action related to a notice. Therefore, since the Mano '807 patent likewise does not disclose making content visible in response to an action related to a notice, the combination of the Mano '807 patent and the Pike '775 patent does not teach the inventions of dependent claims 15, 16, 38, and 39. (Again, the claims recite the content and the notice as separate and distinct limitations.)

Accordingly, dependent claims 15, 16, 38, and 39 are patentable over the Mano '807 patent in view of the Pike '775 patent.

Similarly, dependent claims 24 and 25 recite that, upon an action related to the notice, either the posted content burns through the session so that the posted content is visible to a user or the posted content is displayed in front of the session so that the posted content is visible to a user.

The Examiner relies on the Pike '775 patent in combination with the Lynch '908 patent to reject these claims.

The Pike '775 patent relates to the changing of the order of layering when multiple windows are displayed to a user. However, the order of layer as described in the Pike '775 patent is not dependent upon an action related to a notice. Therefore, since the Lynch '908 patent likewise does not disclose making content visible in response to an action related to a notice, the combination of the Lynch '908 patent and the Pike '775



patent does not teach the inventions of dependent claims 24 and 25. (Again, the claims recite the content and the notice as separate and distinct limitations.)

Accordingly, dependent claims 24 and 25 are patentable over the Lynch '908 patent in view of the Pike '775 patent.

Dependent claims 26 and 28 recite that requests for posted content are automatically and recurrently initiated.

The Examiner relies a combination of the Lynch '908 patent and the Mano '807 patent to reject these claims. (The Examiner actually cites to a Mano patent 6,167,567 for this rejection. Applicants assume that this citation is a typographical error.)

It would not have been obvious to one of ordinary skill in the art to modify the process described in the Lynch '908 patent as suggested by the Examiner. The process described in the Lynch '908 patent is heavily dependent upon the manual interaction between the user and the web site. Therefore, it would not have been obvious to one of ordinary skill in the art to automate the process described in the Lynch '908 patent.

Accordingly, dependent claims 26 and 28 are patentable over the Lynch '908 patent in view of the Mano '807 patent.

Dependent claims 17 and 40-42 recite that the program code that automatically initiates a request for posted content is electronically received at the content recipient from the content provider in the case of dependent claims 17 and 41, and is downloaded from the content provider to the content recipient in the case of

dependent claim 40, and is electronically received at the content recipient in the case of dependent claim 42.

The Examiner relies on the Kullick '275 patent in combination with the Mano '807 patent to reject these claims. (The Examiner actually cites to a Mano patent 6,167,567 for this rejection. Applicants assume that this citation is a typographical error since this patent was not used in the rejections of independent claims 1 and 32.)

The Kullick '275 patent describes downloading upgrades for various programs. However, the Kullick '275 patent does not disclose downloading the program code that initiates requests for content. Therefore, since the Mano '807 patent likewise does not disclose downloading the program code that initiates requests for content, the combination of the Mano '807 patent and the Kullick '275 patent does not teach the inventions of dependent claims 17 and 40-41.

Accordingly, dependent claims 17 and 40-41 are patentable over the Mano '807 patent in view of the Kullick '275 patent.

#### Independent Claim 45

It is noted that the Examiner did not explicitly reject or consider independent claim 45 in the Final Rejection.

Independent claim 45 is directed to a method performed at a content recipient in which a content recipient identifies a content provider having posted content of interest, in which the content recipient automatically initiates a request for the posted content, and in which the content recipient receives a notice that

the content provider has no new content to download to the content recipient.

None of the art applied by the Examiner shows independent claim 45.

Accordingly, independent claim 45 is patentable over the Mano '807 patent, the Lynch '908 patent, the Chang '584 patent, the Beyda '965 patent, the Pike '775 patent, and/or the Kullick '275 patent.

In the Advisory Action, the Examiner uses the same rationale in rejecting independent claim 45 as was used in rejecting independent claims 1 and 32. However, it should be clear from the discussion above that none of the art applied by the Examiner teaches the combination of identifying a content provider having posted content of interest to the content recipient, automatically initiating a request for the posted content, and receiving a notice that the content provider has no new content to download to the content recipient.

Thus, independent claim 45 is patentable over the Mano '807 patent, the Lynch '908 patent, the Chang '584 patent, the Beyda '965 patent, the Pike '775 patent, and/or the Kullick '275 patent.

8. Claims Appendix

An appendix containing the rejected claims is attached.

9. Evidence Appendix

There is no submitted evidence. Therefore, there is no corresponding appendix.

10. Related Proceeding Appendix

There are no related proceedings. Therefore,  
there is no corresponding appendix.

11. Conclusion

For the foregoing reasons, reversal of the  
Final Rejection is respectfully requested.

The fee set forth in 37 C.F.R. §41.20(b)(2) is  
enclosed.

Respectfully submitted,

Schiff Hardin LLP  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606  
(312) 258-5500  
Customer No. 32692

By: 

Trevor B. Joike  
Reg. No: 25,542

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## APPENDIX

1. A method performed at a content recipient comprising:

executing first program code at the content recipient so as to identify a content provider having posted content of interest to the content recipient;

executing second program code at the content recipient so as to automatically initiate a request for the posted content;

executing third program code at the content recipient so as to receive the posted content at the content recipient in response to execution of the second program code; and,

executing fourth program code at the content recipient so as to automatically display notice to the content recipient that the posted content has been received at the content recipient in response to execution of the second and third program code.

2. The method of claim 1 further comprising canceling future requests for the posted content without communicating such an intent to the content provider.

3. The method of claim 1 wherein the executing of the second program code at the content recipient so as to automatically initiate a request for the posted content comprises executing second program code at the content recipient so as to automatically and recurrently initiate requests for the posted content.

4. The method of claim 3 further comprising canceling future requests for the posted content without communicating such an intent to the content provider.

5. The method of claim 1 wherein the method is performed without identifying the content recipient to the content provider.

6. The method of claim 5 further comprising canceling future requests for the posted content without communicating such an intent to the content provider.

7. The method of claim 5 wherein executing second program code at the content recipient so as to automatically initiate a request for the posted content comprises executing second program code at the content recipient so as to automatically and recurrently initiate requests for the posted content.

8. The method of claim 7 further comprising canceling future requests for the posted content without communicating such an intent to the content provider.

9. The method of claim 1 further comprising executing fifth program code at the content recipient so as to provide notice to the content recipient that no posted content has been received by the content recipient in response to execution of the second program code.

12. The method of claim 1 wherein executing the third program code comprises executing the third program code so that

the posted content, when received, is displayed behind a session if the session is active.

13. The method of claim 12 wherein the executing of the fourth program code at the content recipient comprises executing the fourth code so as to display the notice even if the session is active.

14. The method of claim 13 wherein the notice is an icon.

15. The method of claim 13 further comprising executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content burns through the session so that the posted content is visible to a user.

16. The method of claim 13 further comprising executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed in front of the session so that the posted content is visible to a user.

17. The method of claim 1 further comprising electronically receiving the second program code at the content recipient from the content provider.

18. A computer readable storage medium, the computer readable storage medium storing program code which, when executed by a computing device, performs the following functions:

automatically initiating a request for the download of a content element of a web page posted by a content provider; and,

receiving only the content element in response to the request without receiving the whole web page.

19. The computer readable storage medium of claim 18 wherein the stored program code, when executed by a computing device, provides notice that the posted content has been received in response to the request.

20. The computer readable storage medium of claim 18 wherein the stored program code, when executed by a computing device, displays the posted content, when received, behind a session if the session is active.

21. The computer readable storage medium of claim 20 wherein the stored program code, when executed by a computing device, provides notice that the posted content has been received in response to the request.

22. The computer readable storage medium of claim 18 wherein the stored program code, when executed by a computing device, provides notice that the posted content has been received in response to the request, and wherein the notice is displayed even if a session is active.

23. The computer readable storage medium of claim 22 wherein the notice is an icon.

24. The computer readable storage medium of claim 22 wherein the stored program code, when executed by a computing



device, and upon an action related to the notice, burns the posted content through a session so that the posted content is visible to a user.

25. The computer readable storage medium of claim 22 wherein the stored program code, when executed by a computing device, and upon an action related to the notice, displays the posted content in front of a session so that the posted content is visible to a user.

26. The computer readable storage medium of claim 18 wherein the stored program code, when executed by a computing device, automatically and recurrently initiates requests for the posted content.

27. The computer readable storage medium of claim 18 wherein the initiating of requests and the receiving of the posted content are performed without identifying the content recipient to the content provider.

28. The computer readable storage medium of claim 27 wherein the stored program code, when executed by a computing device, automatically and recurrently initiates requests for the posted content.

29. The computer readable storage medium of claim 18 wherein the stored program code, when executed by a computing device, provides notice that no posted content has been received in response to the request.

30. The computer readable storage medium of claim 18 wherein the stored program code is electronically received from

a remote site and is stored by the computer readable storage medium.

31. The computer readable storage medium of claim 30 wherein the remote site is the content provider.

32. A method comprising:

executing first program code at a content provider so as to post content for access by a content recipient;

executing second program code at the content recipient so as to automatically (i) access the content provider and (ii) initiate receipt by the content recipient of the posted content if the posted content is new; and,

executing third program code at the content provider so as to send a message notifying the content recipient that the posted content is not new.

33. The method of claim 32 further comprising canceling future automatic access and initiation functions of the second program code without communicating such an intent to the content provider.

34. The method of claim 32 wherein executing the second program code at the content recipient comprises executing the second program code at the content recipient so as to automatically and recurrently (i) access the content provider and (ii) initiate the receipt by the content recipient of the posted content.

35. The method of claim 32 performed without identifying the content recipient to the content provider.

36. The method of claim 32 further comprising executing fourth program code at the content recipient so that the posted content, when received, is displayed behind a session if the session is active.

37. The method of claim 36 further comprising executing fifth program code at the content recipient so as to provide notice to the content recipient that the posted content has been received at the content recipient in response to execution of the second program code, wherein the notice is displayed even if the session is active.

38. The method of claim 37 further comprising executing sixth program code at the content recipient so that, upon an action related to the notice, the posted content burns through the session so that the posted content is visible to a user.

39. The method of claim 37 further comprising executing sixth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed in front of the session so that the posted content is visible to a user.

40. The method of claim 32 further comprising executing fourth program code at the content provider so as to determine whether the content recipient possesses the second program code and, if the content recipient does not possess the second program code, to download the second program code to the content recipient.

41. The method of claim 32 further comprising electronically receiving the second program code at the content recipient from the content provider.

42. The method of claim 32 further comprising electronically receiving the second program code at the content recipient.

43. The method of claim 1 further comprising executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed to a user.

44. The computer readable storage medium of claim 18 wherein the content element comprises a note attached to the web page.

45. A method performed at a content recipient comprising:

executing first program code at the content recipient so as to identify a content provider having posted content of interest to the content recipient;

executing second program code at the content recipient so as to automatically initiate a request for the posted content; and,

executing third program code at the content recipient so as to receive a notice that the content provider has no new content to download to the content recipient.